

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS**

KIMBERLY STARLING, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

MARA DAY SPA LLC, LEDIMARA
PINNEY, and GREGORY SMITH

Defendants.

Case No.

4:24-CV-00917-P

JURY TRIAL DEMANDED

REQUEST FOR CLERK'S ENTRY OF DEFAULT AGAINST DEFENDANT
MARA DAY SPA LLC

COMES NOW Plaintiff Kimberly Starling, by and through the undersigned counsel, pursuant to FED. R. CIV. P. 55(a), and hereby files this Motion for Clerk's Entry of Default against Defendant MARA DAY SPA LLC in the above-styled action. Plaintiff respectfully requests that the Clerk of Court enter default as the Defendant has failed to serve or file an answer to Plaintiff's claims in this action within the time permitted by law or otherwise.

Federal Rule of Civil Procedure 12(a), entitled "Time to Serve a Responsive Pleading," provides in pertinent part that "[a] defendant must serve an answer within 21 days after being served with the summons and complaint." FED. R. CIV. P. 12(a)(1)(A)(i). Federal Rule of Civil Procedure 55(a), entitled "Entering a Default," provides that "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk *must* enter the party's default." FED. R. CIV. P. 55(a) (emphasis added).

Here, the Plaintiff filed her Amended Complaint naming MARA DAY SPA LLC on November 8, 2024. (See ECF No. 9.) Defendant MARA DAY SPA LLC was served with the

Original Complaint on October 9, 2024. (ECF No. 7.) Defendant MARA DAY SPA LLC's answer to the amended complaint was due on November 29, 2024. The Court subsequently struck MARA DAY SPA LLC's answer because it was not filed by counsel on December 30, 2024. (ECF No. 14.) The Court ordered the Plaintiff to seek the instant default on or before January 13, 2025. Accordingly, the Plaintiff requests that the Clerk enter the Defendant's default pursuant to FED. R. CIV. P. 55(a).

CONCLUSION

WHEREFORE, for the reasons set forth herein, the Plaintiff respectfully requests that the Clerk of Court enter default against the Defendant pursuant to FED. R. CIV. P. 55(a).

RESPECTFULLY SUBMITTED AND DATED this January 5, 2025.

/s/ Andrew Roman Perrong
Andrew Roman Perrong, Esq.
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Glenside, Pennsylvania 19038
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CERTIFICATE OF SERVICE

I certify that I filed the foregoing via ECF on the below date, which will automatically send a copy to all attorneys of record on the case.

I further certify that I mailed a copy of the foregoing to:

Mara Day Spa LLC
2222 McKinney Ave Unit 120
Dallas, TX 75201
Tracking Number: 00310903331480001174

and

Ledimara Pinney
Mara Day Spa LLC
6311 Turner Way
Dallas, TX 75230-1838
Tracking Number: 00310903331480001175

Dated: January 5, 2025

/s/ Andrew Roman Perrong
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